

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**MAX E. SILVER,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 1:06CV70  
(Judge Keeley)**

**JO ANNE BARNHART, COMMISSIONER  
OF SOCIAL SECURITY ADMINISTRATION,**

**Defendant.**

**ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), the Court referred the motion for attorney's fees to United States Magistrate John S. Kaull with directions to submit to the Court proposed findings of fact and a recommendation for disposition. On June 29, 2009, Magistrate Judge Kaull filed his Report and Recommendation/Opinion ("R&R") and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file with the Clerk of Court written objections, if any, within ten (10) days after being served with a copy of the R&R and further directed the parties that failure to file objections would result in a waiver of the right to appeal from the judgment of this Court. The parties did not file any objections.

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Upon consideration of the Magistrate Judge's recommendation and having received no written objections,<sup>1</sup> the Court accepts and approves the R&R. Therefore, it is **ORDERED** that Magistrate Judge Kaull's R&R is accepted in whole and that this motion be disposed of in accordance with the recommendation of the Magistrate. Accordingly, the Court **GRANTS** the motion for attorney's fees pursuant to EAJA (Docket No. 37) and **ORDERS** that 1) plaintiff's counsel shall receive an attorney's fee in the amount of \$8,800.00 and 2) plaintiff's counsel shall remit to the plaintiff the amount of \$2,100, the amount already paid to counsel pursuant to the "Stipulation for Payment of Attorney's Fees" entered by this Court on July 3, 2007;

The Clerk of the Court is directed to transmit copies of this Order to counsel of record.

DATED: July 21, 2009.

/s/ Irene M. Keeley

IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).